

STATE OF WASHINGTON

Phone: (360) 725-7000

MIKE KREIDLER
STATE INSURANCE COMMISSIONER



OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT

Fax: (360) 664-2782

FILED

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DECLARATION OF MAILING

I declare under penalty of perjury
under the laws of the State of
Washington that on the date listed
below, I mailed or caused delivery
of a true copy of this document to
parties listed below
DATED this 9th day of January 2006
at Tumwater, Washington.

Signed: Wendy Galloway
Patricia D. Petersen

Chief Hearing Officer
(360) 725-7105

Hearings Unit, DIC
Patricia D. Petersen
Wendy Galloway
Chief Hearing Officer
Administrative Assistant
Wendyg@OIC.wa.gov.
(360) 725-7002

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:

ANA P. GOMEZ,

Licensee.

NO. D05-105

ORDER ON LICENSEE'S
MOTION FOR RECONSIDERATION

TO: Ana P. Gomez
P.O. Box 1983
Issaquah, Washington 98027

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
Carol Sureau, Deputy Commissioner, Legal Affairs
Kate White, Staff Attorney, Legal Affairs
John Hamje, Deputy Commissioner, Consumer Protection
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

By letter dated September 2, 2005, a Notice of Request for Reconsideration and Request for Stay of Order of Revocation of the Findings of Facts, Conclusions of Law and Order on Hearing entered August 26, 2005 was received from Ana P. Gomez (Licensee). On September 7, 2005, the undersigned determined that said Request was not in compliance with applicable statutes, and allowed the Licensee additional time to comply with those requirements by filing an amended Request for Reconsideration. The Licensee's second Request for Reconsideration, dated September 18, 2005, was received and filed on September 19, 2005.

ORDER ON LICENSEE'S MOTION FOR RECONSIDERATION

No. D05-105

Page 2

Accordingly, a telephone conference was held on September 21, 2005 which included all parties, and, of note, the Licensee was advised that there was no right to a stay of the Final Order revoking her license and that therefore her license was revoked during any reconsideration or appeal process.

Subsequently, the Commissioner filed his OIC Brief in Opposition to Licensee's Request for Reconsideration on October 7, 2005. The Licensee filed her Brief RE: Request for Reconsideration on October 11, 2005 even though all written submissions were to be filed by October 7, 2005, as was the agreement of the parties during the abovereferenced teleconference and as is reflected in the Order in Notice of Hearing on Motion for Reconsideration entered by the undersigned on September 23, 2005. The undersigned did, however, still review and consider the Licensee's Brief Re Request for Reconsideration filed October 11, 2005.

Oral argument on the Licensee's Request for Reconsideration was heard as scheduled on October 12, 2005. The Licensee appeared pro se, and the Commissioner was represented by Staff Attorney Katherine A. White in his Legal Affairs Division.

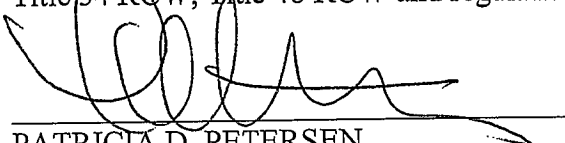
The undersigned has reviewed and considered the arguments of the parties, the record of the original hearing herein, the hearing on the Licensee's Request for Reconsideration and the entire hearing file and has concluded that there is no basis for change in the final Findings of Facts, Conclusions of Law, and Order on Hearing entered by the undersigned on August 26, 2005. Therefore, said final Findings of Facts, Conclusions of Law and Order on Hearing remains effective as entered as the final order in this proceeding.

ORDER

Based upon the above activity,

IT IS HEREBY ORDERED that the Licensee's Request for Reconsideration in this matter has been properly received and heard by the undersigned, that there is no sufficient basis for changing any portion of the final Findings of Facts, Conclusions of Law and Order entered in this matter by the undersigned on August 26, 2005, and that, therefore, the final Findings of Facts, Conclusions of Law and Order entered in the matter by the undersigned on August 26, 2005 remain effective as entered as the final order in this proceeding.

ENTERED AT TUMWATER, WASHINGTON, this 9th day of January, 2006, pursuant to Title 34 RCW, Title 48 RCW and regulations applicable thereto.



PATRICIA D. PETERSEN
Presiding Officer

STATE OF WASHINGTON

Phone: (360) 725-7000

MIKE KREIDLER
STATE INSURANCE COMMISSIONER**DECLARATION OF MAILING**

I declare under penalty of perjury
under the laws of the State of
Washington that on the date listed
below, I mailed or caused delivery
of a true copy of this document to
parties listed below
DATED this 26th day of August 2005
at Tumwater, Washington.

Signed: Wendy Galloway

OFFICE OF

INSURANCE COMMISSIONER

HEARINGS UNIT

Fax: (360) 664-2782

FILED

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Patricia D. Petersen
Chief Hearing Officer
(360) 725-7105

Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer
Wendy Galloway
Administrative Assistant
(360) 725-7002
wendyg@oic.wa.gov

In the Matter of:

ANA P. GOMEZ

Licensee.

) NO. D05-105

) FINDINGS OF FACTS, CONCLUSIONS
) OF LAW, AND ORDER ON HEARING

TO: Ana P. Gomez
P.O. Box 1983
Issaquah, Washington 98027

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection
Carol Sureau, Deputy Commissioner, Legal Affairs
Katherine A. White, Staff Attorney, Legal Affairs
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Pursuant to RCW 34.04.090, 34.04.120, 48.04.010 and WAC 10-08-210, and after notice to all interested parties and persons, the above-entitled matter came on regularly for hearing before the Insurance Commissioner for the state of Washington (OIC) on June 17, 2005, in Tumwater, Washington. All persons to be affected by the above-entitled matter were given the right to be present at such hearing during the giving of testimony, and had reasonable opportunity to inspect all documentary evidence. The Commissioner was represented by Katherine White, OIC Staff Attorney. Ana P. Gomez (Licensee) appeared pro se.

Pursuant to RCW 34.05.461(3), the parties are advised that they may seek reconsideration of this order by filing a request for reconsideration under RCW 34.05.470 with the undersigned within 10 days of the date of service (date of mailing) of this order. Further, the parties are advised that, pursuant to RCW 34.05.514 and 34.05.542, this order may be appealed to Superior Court by, within 30 days after date of service (date of mailing) of this order, 1) filing a petition in the Superior Court, at the petitioner's option, for (a) Thurston County or (b) the county of the petitioner's residence or principal place of business; and 2) delivery of a copy of the petition to the Office of the Insurance Commissioner; and 3) depositing copies of the petition upon all other

Mailing Address: P.O. Box 40255 • Olympia, WA 98504-0255
Street Address: 5000 Capitol Blvd. • Tumwater, WA 98501



FINDINGS OF FACTS, CONCLUSIONS OF LAW
& ORDER ON HEARING, D05-105

Page 2

parties of record and the Office of the Attorney General in the United States mail. If a party chooses to file a petition in the Superior Court, he or she may, but is not required to, first file a request for reconsideration. For further information or to obtain copies of the applicable statutes, the parties may contact the administrative assistant to the undersigned.

NATURE OF PROCEEDING

The purpose of the hearing was to take testimony and evidence and hear arguments as to whether the OIC's Order Revoking License, No. D05-105, entered by the OIC on March 18, 2005, should be confirmed, set aside or modified. Said Order Revoking License revokes the insurance agent's license of Ana P. Gomez based upon facts alleged therein. The Licensee requested this hearing to contest this Order Revoking License.

FINDINGS OF FACTS

Having considered the evidence and arguments presented at the hearing, and the documents on file herein, the undersigned presiding officer designated to hear and determine this matter finds as follows:

1. The hearing was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied.
2. The Licensee is an individual who has been licensed as an insurance agent in the state of Washington since January 2001. [Testimony of Licensee.]
3. The Licensee received a Bachelor of Science degree in Economics, with an emphasis on Management, from The Wharton School, University of Pennsylvania, in June 1994. [Testimony of Licensee; Ex. L1, Resume of Ana Patricia Gomez.] She has worked in the business arena, first in Bogota, Columbia and then immigrating to Washington state. Pertinently, from January 2001 until January 2002 she worked as a Sales Associate for AFLAC in Bellevue, Washington. From January 2002 until January 2005 she worked as District Sales Coordinator for AFLAC, where she achieved quarterly Management Awards for 10 consecutive quarters, surpassed all quarterly and annual sales quotas, received Top District in the Region in 2003 and coordinated insurance sales and marketing strategies for the region's top selling district. [Resume of Ana Patricia Gomez, Ex. L1.]
4. During the period from June 2004 through September 2004, the Licensee signed 73 separate signatures of insureds and other insurance agents, without their knowledge or consent. In addition, some of these 73 signatures were not real people but instead were names of nonexistent people which the Licensee made up, and whose names she signed to look as if they were real people who had actually signed the subject insurance documents. These 73 separate signatures were signed on various insurance documents during 23 separate occasions. [Admission of Licensee during Testimony of Licensee; Exs. 1-12, 14, 16-17, 20-24.]

FINDINGS OF FACTS, CONCLUSIONS OF LAW
& ORDER ON HEARING, D05-105

Page 3

5. The Licensee signed the signatures of insureds, other agents and nonexistent individuals in order to be more successful in competing in AFLAC's quotas and contests based upon amounts of production of insurance business for AFLAC. She received no direct financial gain from signing these signatures. [Testimony of Licensee.]
6. Based upon the above Findings of Facts, the Licensee has shown herself to be, and is here so deemed to be, untrustworthy and a source of injury and loss to the public and not qualified to be an insurance agent in the state of Washington.
7. Ana Patricia Gomez, the Licensee, was called by the Commissioner as a witness in this matter and presented testimony in response to his questions. She also appeared as a witness on her own behalf. On each occasion, the Licensee presented her testimony in a detailed, clear and credible manner. She readily admitted committing the forgeries as alleged by the Commissioner. She appeared to be very remorseful. In addition, she clearly regrets these activities as mistakes, although she did not address why sheer competition, rather than financial gain or other motives, should have been sufficient motivation for activities as serious as the subject forgeries.
8. Laurie Woodson, who resides in the state of Georgia and is employed as an investigator by AFLAC, appeared as a witness on behalf of the Commissioner. Her testimony was detailed, clear and credible, and she exhibited no apparent biases.
9. Kimberly Jane Moger of Bellevue, Washington, who is a licensed insurance agent working for AFLAC and is a friend and colleague of the Licensee, appeared by telephone as a witness on her behalf. Ms. Moger presented her testimony in a detailed, clear and credible manner, presenting information only as to the good work ethics and character of the Licensee. It is of note, however, that on cross examination she admitted that she was not aware of the activities with which the Commissioner has charged the Licensee in this proceeding.
10. Edna Martin of Seattle, Washington, who is a licensed insurance agent who worked for AFLAC, including working with the Licensee as the Licensee's supervisor for several years there, appeared by telephone as a witness on her behalf. Ms. Martin presented her testimony in a detailed, clear and credible manner, presenting information only as to the good work ethics and character of the Licensee. It is of note, however, that on cross examination she admitted that she was not aware of the activities with which the Commissioner has charged the Licensee in this proceeding.
11. Based upon the activities of the Licensee as set forth in the facts found herein, it is here found that the Insurance Commissioner's Order Revoking License, No. D05-105, entered March 18, 2005, is reasonable under the circumstances and should be upheld.
12. The undersigned recognizes recent case law which draws into question the proper standard of proof to be applied in administrative cases involving some types of professional licenses, and recognizes that such cases involving insurance agents' licenses have not been addressed. In recognition of the question that this recent case law raises, however, the undersigned has applied

OFFICE OF INSURANCE COMMISSIONER

FINDINGS OF FACTS, CONCLUSIONS OF LAW
& ORDER ON HEARING, D05-105

Page 4

both the "clear cogent and convincing" standard of proof and the "preponderance of the evidence" standard of proof, and finds the above facts under application of either the lower or the higher standard of proof.

CONCLUSIONS OF LAW

1. Pursuant to the Findings of Facts above relative to her activities in some cases in signing the names of individuals without their knowledge or consent on insurance documents, and in other cases making up the names of nonexistent individuals and then signing their names on insurance documents, it is hereby concluded that the licensee has demonstrated herself to be, and has been so deemed to be, untrustworthy and a source of injury and loss to the public and not qualified to be an insurance agent in the state of Washington as contemplated by RCW 48.17.530(1)(h). Therefore, pursuant to RCW 48.17.530, the insurance agent's license of Ana Patricia Gomez should be revoked.

2. Based upon the Findings of Facts herein, and Conclusions of Law directly above, it is hereby concluded that the Insurance Commissioner's Order Revoking License, No. D05-105, entered against Ana Patricia Gomez on March 18, 2005, should be upheld.

ORDER

On the basis of the foregoing Findings of Facts and Conclusions of Law, to the effect that the Licensee has shown herself to be untrustworthy and a source of injury and loss to the public and not qualified to be an insurance agent in the state of Washington as contemplated by RCW 48.17.530(1)(h) and that therefore her insurance agent's license should be revoked pursuant to RCW 48.17.530,

IT IS HEREBY ORDERED that the Commissioner's Order Revoking License, No. D05-105 entered March 18, 2005, is upheld,

IT IS FURTHER ORDERED that the Licensee's insurance agent's license shall be surrendered to the Office of the Insurance Commissioner, P.O. Box 40255, Olympia, Washington 98504-0255 by close of business on September 13, 2005.

This Order is entered pursuant to RCW 34.05, WAC 10-08-210 and RCW 48.04.010.

THIS ORDER IS ENTERED AT TUMWATER, WASHINGTON, this 26th day of August, 2005.



PATRICIA D. PETERSEN
Presiding Officer

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of

Ana P. Gomez,

Licensee.

) No. D 05 - 105

) ORDER REVOKING LICENSE

)

To: Ana P. Gomez
1431 242nd PI SE
Sammamish, WA 98075

DECLARATION OF MAILING

I certify under penalty of perjury
Under the laws of the State of
Washington that on the date listed
below, I mailed or caused delivery
of a true copy of this document to

DATED this 18th day of March 2005
At Tumwater, Washington

Signed

Victoria Meyer
FILED

APR - 7 2005

Hearings Unit, OIC
Patricia D. Petersen
Chief Hearing Officer

IT IS ORDERED AND YOU ARE HEREBY NOTIFIED that your licenses are REVOKED,
effective April 7, 2005, pursuant to RCW 48.17.530 and 48.17.540(2).

THIS ORDER IS BASED ON THE FOLLOWING GROUNDS:

American Family Life Assurance Company (AFLAC), Keisha Weeks, notified the Insurance Commissioner (OIC) in January, 2005, of a notice terminating the appointment of Ana P. Gomez (licensee).

1. According to the information provided by AFLAC, the Special Investigations Unit (SIU) for AFLAC conducted an investigation of the licensee's insurance practices. The licensee admitted submitting insurance applications for applicants whom she had not met with; the applicants' signatures were forged.
2. In response to the Office of Insurance Commissioner (OIC) Investigator Cheryl Penn's letter dated January 27, 2005, the licensee stated the following: "As Ms. Weeks informed you, I was involved in some incorrect behavior - I am not disputing the charges."

RCW 48.17.530 provides that: (1) The Commissioner may suspend, revoke, or refuse to issue any license which is issued or may be issued under this chapter or any surplus line broker's license for any cause specified in any other provision of this code, or for any of the following causes: (h) If the licensee or applicant has shown himself to be, and is so deemed by the commissioner, incompetent, or untrustworthy, or a source of injury and loss to the public.

By reason of your conduct you have shown yourself to be and are so deemed by the Commissioner, untrustworthy and a source of injury and loss to the public and not qualified to be an insurance agent in the State of Washington. Accordingly, your license is revoked pursuant to RCW 48.17.530(1) (h).

IT IS FURTHER ORDERED that you return your insurance agent's license certificate to the Commissioner on or before the effective date of the revocation of your license, as required by RCW 48.17.530(4).

ORDER REVOKING LICENSE

No. D 05 - 105

Page 2

NOTICE CONCERNING YOUR RIGHT TO A HEARING. Please note that a detailed summary of your right to contest this Order is attached. Briefly, if you are aggrieved by this Order, RCW 48.04.010 permits you to demand a hearing. Pursuant to that statute and others: You must demand a hearing, in writing, within 90 days after the date of this Order, which is the day it was mailed to you, or you will waive your right to a hearing. Your demand for a hearing must specify briefly the reasons why you think this Order should be changed. If your demand for a hearing is received by the Commissioner before the effective date of the revocation, then the revocation will be stayed (postponed) pending the hearing, pursuant to RCW 48.04.020. Upon receipt of your demand for hearing, you will be contacted by an assistant of the Chief Hearing Officer to schedule a teleconference with you and the Insurance Commissioner's Office to discuss the hearing and the procedures to be followed.

Please send any demand for hearing to Insurance Commissioner, attention Scott Jarvis, Deputy Insurance Commissioner, Office of the Insurance Commissioner, P.O. Box 40257, Olympia, WA 98504-0257.

ENTERED AT TUMWATER, WASHINGTON, this 18th day of March, 2005.

MIKE KREIDLER
Insurance Commissioner

By


SCOTT JARVIS
Deputy Commissioner

Investigator: Cheryl Penn

NOTICE OF YOUR RIGHT TO A HEARING

You have the right to demand a hearing to contest this Order. During this hearing, you can present your argument that the Order should not have been entered for legal and/or factual reasons and/or to explain the circumstances surrounding the activities which are the subject of this Order. You may be represented by an attorney if you wish, although in some hearings before this agency parties do choose to represent themselves without an attorney.

Your Demand for Hearing should be sent to Scott Jarvis, Deputy Insurance Commissioner, Office of the Insurance Commissioner, P.O. Box 40257, Olympia, WA 98504-0257, and must briefly state how you are harmed by this Order and why you disagree with it. You will then be notified both by telephone and in writing of the time and place of your hearing. If you have questions concerning filing a Demand for Hearing or the hearing process, please telephone the Hearings Unit, Office of the Insurance Commissioner, at 360/725-7002.

Your Demand for Hearing must be made within 90 days after the date of this Order, which is the date of mailing, or your Demand will be invalid and this Order will stand. If your Demand for Hearing is received before the effective date of this Order, the penalties contained in the Order will be stayed (postponed) until after your hearing.

It is important to know that if you demand a hearing, you will have two options for how it will be handled:

Option 1: Unless you specifically request Option 2, your hearing will be presided over by an administrative law judge from the Office of the Insurance Commissioner. Under this option, upon receipt of your Demand for Hearing, the Insurance Commissioner may refer the case to an administrative law judge. The administrative law judge is an individual who has not had any involvement with this case. The administrative law judge will hear and make the final decision in the case without any communication, input or review by the Insurance Commissioner or staff or any other individual who has knowledge of the case. This administrative law judge's final decision may uphold or reverse the Commissioner's action or may instead impose any penalties which are less than those contained in the Order.

Option 2: If you elect, your hearing will be presided over by an administrative law judge from the Office of Administrative Hearings. That administrative law judge will issue an initial or recommended decision which will then be sent to the Insurance Commissioner. The Insurance Commissioner, or his designee, will review the initial decision and make the final decision. The Insurance Commissioner's final decision in the case may uphold, reverse or modify the initial decision, thereby changing the penalty which is recommended in the initial decision. In writing the final decision, the Insurance Commissioner is not bound by the findings of facts or conclusions of law which were made in the initial decision.